

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 13 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Okubo Keiichi, JP 2001-252037.**

**Regarding claim 13**, in drawing 1 of Keiichi, the dried noodles clearly have voids and cracks extending from a central portion of the noodle (also see 0009). Also since the cross section of the noodle is clearly full of voids and cracks, the cross section is considered to be thinned.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claim 1-3,6-7,9-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Ito Yoichi, JP 03-247247 in view of Okubo Keiichi, JP 2001-252037.**

**Regarding claims 1, 11-12**, Yoichi teaches boiling long strips of starchy noodles and then drying them with hot air in an atmosphere at 94-100 C and at a humidity of 25-40% (see Patent Abstracts of Japan NPL and JP 03-247247) (the resulting noodle would be a non-fried “instant” noodle). Yoichi fails to teach placing the noodles in an aqueous solution after boiling them and before drying them.

Keiichi teaches the concept of soaking noodles after they’ve been boiled and prior to drying them in an aqueous solution comprising reforming liquid to improve the quality of the noodles (see 0006 of Keiichi). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine this soaking concept taught by Keiichi with the invention of Yoichi in order to improve the quality of the non fried “instant” noodles produced by the invention of Yoichi.

**Regarding claim 2**, Yoichi is silent as to whether or not the noodles have a cross sectional shape in the width direction that is rectangular or elliptical however it is well known in the art that noodles typically have a cross sectional shape in the width direction that is rectangular or elliptical (see drawing one of Keiichi). Additionally, selecting the shape of the noodle to be processed would have been obvious to one of ordinary skill in the art and is simply a matter of choice or preference.

**Regarding claim 3**, Yoichi teaches that the noodles are “blow dried” by a drier capable of circulating air (see Patent Abstracts of Japan NPL and JP 03-247247). The air is considered to be dehumidified since it is at 25-40% relative humidity.

**Regarding claim 6**, it is not entirely clear what is encompassed by the term “standing” however in light of applicant’s specification (0040):

For example, a step of letting the to-be-processed object stand under an indoor environment can be selected. Letting stand in a refrigerating temperature range is more preferable in this case since the proliferation of microorganisms can then be restrained. Also in the standing step, a step of immersing the to-be-processed object in an aqueous solution may be employed.

and claim 7, “Standing” has been considered to be referring to a time where the product is stationary in any of the process steps mentioned in claim 1 (ie is not “moving” from step 1 to step 2 or step 2 to step 3). Keiichi teaches the product “standing” in the immersed state (reached after performing step 2) for 10 hours (0007). [Additionally the

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term “standing” is known in the culinary arts to refer to a point where a product is allowed to “sit still” without disturbance and Keiichi teaches this as mentioned previously.] The composite invention of Yoichi in view of Keiichi as discussed previously would involve letting the noodles “stand” prior to drying them and after boiling them.

**Regarding claims 7 and 9**, it is well known in the art to allow noodles to “stand” or soak indoors and the invention of Keiichi is considered to have been carried out in an indoor environment since there is mention of carrying out the process steps in an air conditioned room (see 0015) so the “standing” step as mentioned previously would have been carried out in an indoor environment. The composite invention of Yoichi in view of Keiichi would thus involve allowing the noodles to “stand” or soak indoors.

**Regarding claim 10**, Yoichi teaches starchy noodles however Yoichi fails to teach the composition of the noodles. It is well known in the art that noodles are typically composed of starchy materials derived from wheats, rices, corns, etc (Keiichi teaches noodles derived from wheats in paragraph 0008). It would have been obvious to one having ordinary skill in the art to use noodles composed of wheats with the invention of Yoichi because wheats are known to be healthy and have many health boosting properties.

**Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Ito Yoichi, JP 03-247247 in view of Okubo Keiichi, JP 2001-252037 and applicant's admitted prior art of JP 03-440231.**

**Regarding claim 8**, the references teach the contents mentioned previously and further Keiichi teaches boiling and immersing the starchy noodles as discussed previously. Keiichi fails to explicitly teach rinsing the product after the 2nd step. It is a common practice in the culinary arts however to rinse starchy products after soaking (allowing them to "stand" in a liquid) prior to further use in order to remove excess starch that would be present on the products after removal from the soaking bath. This is commonly done with pasta and rice products that are high in starch. Furthermore, applicant discloses that rinsing noodles after allowing them to "stand" was known in the art (paragraph 0009 of applicants specification) and that JP 03-440231 teaches the concept of rinsing noodles after allowing them to stand. It would have thus been obvious to one of ordinary skill in the art to rinse the noodles after allowing the noodles to stand of the composite invention of Yoichi in view of Keiichi in order to remove additional starch.

**Claims 4-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Yoichi, JP 03-247247 in view of Okubo Keiichi, JP 2001-252037 and Ko Kugisawa, US-Patent 4,483,879.**

**Regarding claims 4 and 5**, the references teach the contents mentioned in examiner's address of claim 1. The references fail to teach steam treating the product prior to processing. Kugisawa teaches that it is favorable to steam treat noodle products in order to minimize cracks formed in the noodles and in order to have a more favorable taste (column 3, lines 30-38 and column 5, line 57). It would have been obvious to one of ordinary skill in the art at the time of the invention to thus combine the steam treatment process of Sugisawa with the composite invention of Yoichi in view of Keichi by steam treating the raw noodles in order to reduce cracks and enhance the taste.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRESTON SMITH whose telephone number is (571)270-7084. The examiner can normally be reached on Mon-Fr 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Drew E Becker/  
Primary Examiner, Art Unit 1794

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